

April 17, 2009

TO: Teresa Parsons
Director's Review Program Supervisor

FROM: Meredith Huff, SPHR
Director's Review Investigator

SUBJECT: Christ Thomsen v. Department of Natural Resources (DNR)
Allocation Review Request ALLO-08-009

Director's Review Conference

By letter received February 6, 2008, Ms. Linda Fryant, Employee Relations Specialist for WPEA, requested a Director's Review of DNR's allocation of Mr. Christ Thomsen's position.

On February 23, 2009, I conducted a Director's review conference by phone. Present by phone were Christ Thomsen, employee; Mr. Lou Baker, Director of Contract Administration, WPEA, representing Mr. Thomsen; Ms. Helen McSharry, and Mr. Marty Graf, Human Resources Consultants, representing DNR.

Director's Determination

As the Director's review investigator, I carefully considered the documentation in the file, the class specifications, and the information provided during the Director's review conference. Based on my review and analysis of Mr. Thomsen's assigned duties and responsibilities, I determined his position is properly allocated to the classification of Natural Resources Specialist 2 class code 523T.

Position Descriptions for other DNR positions were submitted for comparison to Mr. Thomsen's position. As comparison to other positions is not criteria for an allocation review, I reviewed these position descriptions only to achieve a better understanding of the work and the agency.

Background

Mr. Thomsen requested a reallocation by submitting a completed and signed Position Review Request (PRR) to DNR on October 4, 2007. (Exhibit D-1) Mr. Thomsen

proposed that the Natural Resources Specialist 3 classification would be a better fit for his position. On January 9, 2008, Ms. Helen McSharry, of the DNR Human Resources office, issued an allocation determination indicating Mr. Thomsen's position was properly allocated to the Natural Resources Specialist 2 classification. (Exhibit B-1) On February 6, 2008, Mr. Thomsen's WPEA representative, Ms. Lynda Fryant, submitted a request for a Director's Review of DNR's allocation decision. (Exhibit A-1) The time frame for this review is at least six months prior to October 4, 2007.

Summary of Mr. Thomsen's Comments

Mr. Thomsen provided additional information about responsibilities listed on the Position Review Request dated October 4, 2007. (Exhibit D-1)

Mr. Thomsen indicated there is a plan for every restoration project and it is necessary to comply with that plan. His responsibilities include development and implementation of plans. He submits a copy of each plan to his supervisor for recommendations to modify the plan and for final approval and signature. Mr. Thomsen estimated that he spends approximately 80 percent of his work time in the office and the remaining 20% in the field. Mr. Thomsen confirmed that his role as the Natural Areas Manager includes participation in development of trail standards, making recommendations for a plan, reviewing plans for completeness and accuracy, matching future recommendations to past plans to provide consistency; and being a consultant for the plan. The DNR Commissioner approves and signs all plans.

Mr. Thomsen discussed the Cypress Island project plan to return the Island to its natural state by demolishing several buildings, removing underground utilities and storage units and revegetating the area over a period of time. In the case of Cypress Island the plan is to acquire the school and then remove the school facilities. Part of the plan is to confirm the buildings are not of historical or culture interest. (Exhibit D-11)

Mr. Thomsen verified that he is responsible for managing natural areas and indentifying needs of those areas and the user groups that use them. He is responsible for obtaining the dollars/budget to meet those needs. For example, he talked about trail maintenance. He works with the fire staff and volunteers to do maintenance on many trails. He addresses public concerns and evaluates if there needs to be a change in a site in a natural area.

Mr. Thomsen confirmed that he often deals with cultural resources and contacts Native American Tribes. When necessary, he makes presentations to tribes regarding a plan and tries to move a project forward. He stated he leads negotiations with tribes. Sometimes issues go to the DNR Cultural Resources unit. He develops all the necessary paperwork when a review by DAHP is necessary.

Mr. Thomsen emphasized that on a region-wide basis he is a consultant to District Managers. He stated he is generally the person to talk to when there are questions on how to address trail planning, what is adequate for a specific site and how to mitigate

damage to a natural area. He consulted with regional and district managers regarding how to respond, educate constituents and get the word out on what is happening during a project.

Mr. Thomsen noted that he works independently and meets with his supervisor less frequently than monthly. Mr. Thomsen indicated his supervisor checks in periodically on whether or not Mr. Thomsen is on track for the region on budget plans, work plans, and if there is adequate supervision for the volunteers.

Mr. Thomsen emphasized that he represents DNR at the user advisory groups meetings such as the mountain bike clubs; horse clubs, and groups interested in multi-use trails. The user groups discuss accomplishments, budget dollars from legislature; and problems in a forest block (state lands). They also volunteer to work on the trails. Mr. Thomsen estimated he supervised about 3500 volunteer hours last year (2008).

Mr. Thomsen also commented on his responsibilities for coordinating with tribal entities about cultural resources and projects. When negotiations are necessary, Mr. Thomsen is the negotiator. He makes presentations and tries to move the project forward by working with the tribal organization. If a review is necessary of cultural findings/artifacts, the division manager will get involved and develop any necessary paperwork.

Mr. Thomsen addressed his grant application responsibilities. He indicated that he does three grants each year which includes the application development, presentations and the final work. He noted he has direct contact with the grantor for each of the grants. He indicated that he manages approximately \$990,000 in grant funding, the majority of which he has obtained. He emphasized his responsibility for a fixed budget of about \$715,000 which is shared with the South Region. He often will develop a request for a budget enhancement for a special project or plan.

Mr. Thomsen stated he felt he provided adequate information for his scope of responsibilities for region-wide budgets, standards, planning and multiple land management programs to meet the National Resources Specialist 3 (NRS3) class.

On behalf of Mr. Thomsen, Mr. Baker emphasized that Mr. Thomsen's position should be reallocated upward. He commented that Mr. Thomsen is in both the Northern and Southern areas of the region with his recreational and forest programs. He noted that the Region Manager may look at this as efficiency as programs are not being duplicated by a person in the Northern area and a different person in the Southern area.

Summary of Comments from DNR representatives

Mr. Graf noted that this Region is divided into North and South regions. Mr. Graf indicated that Mr. Thomsen's role is to deal with the Northern part of the region, including the San Juan Islands. Another employee is designated to deal with the Southern area of the region. He noted that it is not the agency's desire to have two designated experts in the Region. Mr. Graf stated that Mr. Thomsen is an expert in his

knowledge of land management plans but his work priorities are not assigned for the *region*. Mr. Graf maintained that Mr. Thomsen is not dealing with programs on a region-wide basis for a majority of his work time which would meet the NRS3 level of work. He confirmed that he feels the NRS 2 class is the best fit for Mr. Thomsen's position and referred to the decision letter of January 9, 2008 for which details the lack of region-wide responsibilities in Mr. Thomsen's position. (Exhibit B-1)

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work accomplished, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of *best fit*. The Board referenced Allegri v. Washington State University, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

Consistent with our [PAB] decisions in Griffith v. Dept of Ecology, PAB Case No. ALLO - 00-0016 (2000) and Stash v. Dept of Ecology, PAB Case No. Allo-00-0001 (1999), when a classification specification requires written designation, we must look for a document that confers such a designation upon the position in question. This written documentation can be a formal agency designation form, an approved CQ, or other written documentation. Osborne v. Department of Transportation PAB Case No. ALLO-02-0032 (2002).

Position Review Request (PRR)

On the PRR signed on October 4, 2007, Mr. Thomsen described his main job duties as follows, in part:

- **30%** Programs Management...Public Use/Recreation and Natural Areas programs
- **15%** Grant Application Development, Acquisition and Implementation
- **10%** Budget Development, Management and Expenditures
- **15%** Capital Improvement, Site and Facilities Development, Maintenance and Preservation
- **10%** Project Managements
- **5%** Public Outreach and education
- **5%** Consulting, Planning and Statewide Initiatives

- **5% Supervision**
- **5% Other duties as assigned** (Exhibit D-1 [Note: the PRR is not signed by a supervisor])

There was no question among the parties that Mr. Thomsen's position fits within the Class Series Concept for the Natural Resource Specialist series.

Natural Resource Specialist 3 (NRS3) (class code 523U)

The **Definition** of the NRS3 states: "*As the **designated expert within a division** or region, positions research, analyze, recommend and provide consultative services for a specialized portion of a natural resource program. Examples include, but are not limited to, land management, timber sales, fire control, agricultural leases, shellfish and public tideland recreation, forest practices, reforestation and stand management, and/or environmental education. Some positions serve as the **designated coordinator for various entities or programs** such as fire protection and prevention, emergency management, volunteers, or forest stewardship. These positions do not normally work on a consulting basis in the course of performing their duties.*"

The NRS3 requires that an incumbent be designated as an expert within a division or region or designated as a coordinator for various entities or programs. The PAB Board has held that, "*This written documentation can be a formal agency designation form, an approved CQ, or other written documentation.*" In reviewing the Position Review Request, the Position Description Form, and the Performance and Development Plans and Evaluations, as well as the other file documentation, I have not found information that indicates Mr. Thomsen's position was designated in writing as an expert or coordinator as required by the Definition of the NRS3.

The determination letter from the DNR's Human Resource Office states in part, "*Your [Mr. Thomsen's] chain of command was also consulted, specifically, Candace Johnson, Assistant Region Manager, to determine if your position has been designated by the Region Manager as either the coordinator or expert for the Region. Ms. Johnson stated that you have not been designated as the region-wide expert in, or a coordinator of, the programs you work in.*" (Exhibit B-1, page 3)

Mr. Thomsen's position does not meet the requirement of the Definition of the NRS3 for designation as an expert or a coordinator. The NRS3 is not the best fit for the overall duties and responsibilities of Mr. Thomsen's position.

Natural Resources Specialist 2 (NRS2) (class code 523T)

The **Definition** of the Natural Resources Specialist 2 states: "*Positions independently plan, prioritize, coordinate and implement forest eco-system programs (resource management and/or regulatory) or contract management and land development activities within agricultural, aquatic, and/or commercial lands program(s) in an assigned geographic area or district. Some positions serve as a staff assistant performing a variety of professional projects and tasks within assigned specialized forestry programs*"

or as a staff assistant performing a variety of professional projects or tasks within an assigned land management program. Some positions may supervise other professionals and/or skilled technicians.”

Although not allocation criteria, the Typical Work statements provide guidance and examples of the scope and breadth of impact of the position. The Typical Work of the NRS2 states, in part:

- “As a local unit manager, performs professional field activities and supervises local unit employees to conduct or perform activities assigned to the unit;
- Recommends activities for inclusion in district plans; schedules planned and assigned activities, writes site-specific silviculture prescriptions;
- Gathers and provides information and meets with other agencies, interest groups, industry and individuals concerning agency programs and activities;
- Evaluates state-owned lands to establish best and most profitable use and to initiate development actions;
- Analyzes and determines leasing and marketing structures and environmental and legislative requirements;
- Positions may supervise lower level staff.”

Mr. Thomsen's responsibilities emphasize projects and plans in the Public Use/Recreation and Natural Areas conservation and preservation programs in the northern area (Skagit, Island, San Juan and Whatcom counties) of the Northwest Region. He is in charge of stewardship of natural areas lands, public access and recreation opportunities in his assigned area. He plans, manages and tracks a biennial budget of about \$715,000 and seeks out and secures additional funding through grants, volunteer donations and other sources. Mr. Thomsen investigates and analyzes existing and potential recreation, public access and natural areas sites and creates recommendations for development or no development. He prepares development concepts, plans, designs and cost estimates; prioritizes project lists, and recommends funding. Mr. Thomsen is responsible for planning, conducting and managing public meetings and outreach efforts, including recreational and special interest groups, Native American tribes, focus groups and advisory committees for special plans and projects. Mr. Thomsen supervises five employees and oversees the work of many volunteers.

The duties and responsibilities of Mr. Thomsen's position fit with the Definition and are supported by the Typical Work statements of the Natural Resource Specialist 2 class. Mr. Thomsen's position is properly allocated.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following, in part:

Christ Thomsen v DNR
Allocation Review ALLO-08-009

An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to . . . the Washington personnel resources board . . . Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

cc: Christ Thomsen, DNR
Marty Graf, DNR
Lisa Skriletz, DOP

Enclosure: List of Exhibits

List of Exhibits

A. Filed by employee February 6, 2008:

1. Letter dated January 31, 2008 from WPEA requesting Director's Review.

B. Filed by agency February 11, 2008:

1. January 9, 2008 HR Allocation determination letter.
2. October 2007 org chart

C. Filed by Christ Thomsen February 13, 2008:

1. Original letter from WPEA Request for Director's Review.
2. Allocation Determination letter, January 9, 2008.

D. Filed by Christ Thomsen, April 11, 2008, (in binder)

1. Position Review Request signed October 4, 2007 [no supervisor signatures]
2. Allocation Decision letter dated January 9, 2008
3. Chronology
4. Position Description Form, Christ Thomsen, #6413 dated October 10, 2006
5. Position Description Forms for other positions conducting similar duties
6. Christ Thomsen Performance and Development Plan and Evaluation 2/2007-2/2008
7. Christ Thomsen Performance and development Plan and Evaluation 2006-2007
8. Christ Thomsen Development and Performance Plan and Evaluation 2003-2005
9. Emails-Misc.
10. Grant Project 06-1866M
11. Secret Harbor Properties Demolition and Renovation Projects
12. Governor's Executive order 05-05 Compliance
13. Region public use and natural Areas Budget management
14. Staff management
15. Projects and Programs activity tracking

E. Added by Director's Investigator

1. National Resource Specialist 1 class (class code 523S)
1. National Resource Specialist 2 class (class code 523T)
2. National Resource Specialist 3 class (class code 523U)